FILE COPY

Office - Supreme Court, U. S.
FILED
DEC 4 1947
CHARLES ELMORE CROPLEY
CLERK

In the Supreme Court of the United States

OCTOBER TERM, 1947

No. 407 7

THOGER GRONBERG JUNGERSEN,

Petitioner,

vs.

OSTBY AND BARTON COMPANY and
AMERICAN ASSOCIATES, INC.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE THIRD CIRCUIT AND BRIEF IN SUPPORT THEREOF

DRURY W. COOPER,
JOHN N. COOPER,
KARL W. FLOCKS,
Counsel for Petitioner.

INDEX

PAGE

PETITION FOR WRIT OF CERTIORARI

Summary Statement of Matter Involved 1

1. Proceedings Below 1

2. Jungersen's Contribution to the Jewelry Trade . 2

3. Ostby and Barton and Jewelry Casting 5

4. The Difference Between Claims 1 to 4 and 5 and 6 7

5. The Prior Art 8

A. Kralund Patent 8

B. Spencer Patent 9

C. Haseltine Patent 10

Jurisdiction 11

Question Presented 12

Reasons for Granting the Writ 12

BRIEF IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI

Opinions of the Courts Below 14

Jurisdiction 14

Statement of the Case 14

Specification of Errors 14

Argument 15

PAGE

Cases Cited

Carnegie Steel Co. v. Cambria, 185 U. S. 403, 423 .... 12, 16
In re Jungersen—Record, pages 508a-513a 13, 17
Jungersen v. Baden & Foss et al. (D. C. S. D. N. Y.) 69 F. Supp. 922 ..... 13, 17
Jungersen v. Jenkins (D. C. D. Md.) 30 F. Supp. 615 ..... 13, 16
Jungersen v. Morris Kaysen Co. (D. C. E. D. Pa.), 31 F. Supp. 703 ..... 13, 16
Potts v. Creager, 155 U. S. 597, 606-608 ..... 12, 16
Smith v. Snow, 294 U. S. 1, 11 ..... 12, 16

Statutes Cited

Revised Statutes, Sec. 4888 (35 U. S. C. Sec. 33) .. 16

In the Supreme Court of the United States

OCTOBER TERM, 1947

No. _____

THOGER GRONBERG JUNGERSEN,

Petitioner,

vs.

ØSTBY AND BARTON COMPANY and AMERICAN ASSOCIATES, INC.,

Respondents.

PETITION FOR WRIT OF CERTIORARI

To the Honorable the Chief Justice and Associate Justices of the Supreme Court of the United States:

Your petitioner, Thoger Gronberg Jungersen, prays that a writ of certiorari issue to review the decree, entered September 5, 1947 (R. 380a), of the United States Circuit Court of Appeals for the Third Circuit with respect to Appeal No. 9223 in which petitioner was appellant.

A certified transcript of the record in the case, including the proceedings in said Circuit Court of Appeals, is furnished herewith, in compliance with Rule 38 of the Rules of this Court.

Summary Statement of the Matter Involved

1. *Proceedings Below*

Jungersen, the petitioner and inventor, is a Dane by birth, an American citizen by adoption, who has resided here for years, and is the patentee and sole owner of the

patent in suit No. 2,118,468 (R. 502a). This is an action brought by respondents against petitioner to have the patent declared invalid and not infringed by respondents, with a counterclaim by petitioner asserting validity and infringement (R. 1a-7a, 12a-16a).

The patent relates to a method of casting jewelry of intricate design with such excellent and economical results that it is now universally used by jewelry manufacturers. The patent contains six claims. The District Court for New Jersey held claims 1 to 4 of the patent valid, and claims 5 and 6 invalid. Petitioner had conceded that claims 1 to 4 were not infringed by respondents, and it was found that respondents would infringe claims 5 and 6 if valid (R. 39a). The opinion of the District Court (R. 22a-32a) is reported at 65 F. Supp. 652.

The Third Circuit Court of Appeals, on cross appeals Nos. 9222 and 9223 by respondents and petitioner, respectively, affirmed the judgment of the District Court for the reasons given in the District Court's opinion (R. 378a), and the opinion to that effect is reported at 163 F. (2d) 312, Case 3.

2. *Jungersen's Contribution to the Jewelry Trade*

Jungersen gave to the jewelry art the first successful process that reproduced in full detail intricate and finely made jewelry (rings, for example) without the necessity of chasing or other hand work. This was found by both Courts (R. 34a, Finding 11).

Petitioner was in Canada at the time he made the invention, and had had no contact with the jewelry trade. He had been and is an engineer. In a conversation with a friend he offered to apply for an advertised job as a caster of jewelry, but when he applied he was rejected on the ground that he had had no jewelry casting experience. He was, however, allowed to borrow one of the jeweler's

sample pieces of jewelry to see what he could do with it. After study he evolved the process of the patent in suit (R. 77a-79a).

Up to that time there had been four ways of producing jewelry;

First. Making each piece by hand, by a skilled artisan, at relatively great expense (R. 68a).

Second. Making hardened steel dies by hand and stamping the gold or silver. This involved the great expense of making the dies, ranging from $250 to $2,000 for the dies for a single ring design, depending upon the style of the ring (R. 52a-53a; 68a, 120a). Since stamped rings are made in several parts there was, in addition, the considerable cost of joining these parts (R. 53a). Moreover, the great expense of the dies was wasted if the ring design did not catch the public fancy.

Third. "Cuttlefish" casting. In this method, a model of the piece to be cast was pressed between the faces of two cuttlefish bones, providing a rough impression of the ring-halves. The two halves were then joined together forming a mold in which the gold or silver was cast. After that an especially skilled mechanic had to drill, size, braze (solder) and hand-fashion the pieces into final form (R. 50a, 69a-71a).

Fourth. Sand casting. Here the pattern was put in a sand mold. The rough result was generally like the cuttlefish method, and the casting had to be similarly hand finished by highly paid skilled workmen before it was finished (R. 51a).

All of these methods were slow and expensive.

What Jungersen did was, first to produce a model of a piece of jewelry of intricate design, then to form about the model a primary mold made of rubber or soft metal (R. 166a), for example, which follows all the intricate irregu-

larities of the model. Then the model is removed from the mold and molten wax is introduced into the mold under sufficient force to make it fill the entire cavity with all of its intricate irregularities. Upon removal of the wax pattern from the primary mold it is invested in a refractory material to produce the secondary mold from which the wax pattern is removed by the application of heat. Thereafter molten metal is introduced into the secondary mold with sufficient force to fill all the intricate cavities, thereby producing a perfectly cast intricate piece of fine jewelry. That is the subject of claim 5 of the patent (R. 503a), and claim 6 is for the article of jewelry so produced.

Except for the making of the original model of intricate design, there is no skilled work involved in the Jungersen process. His invention produces in full detail intricate and finely made jewelry at little expense beyond the cost of the original model and the precious metal used. The District Court so found (R. 34a, Finding 11).

Jungersen patented his invention in many countries, first in Canada, where he was at the time temporarily residing (R. 84a). Goldsmith Brothers bought the Canadian patent (R. 82a) and under it have licensed practically every jeweler in Canada (R. 52a). Under the United States patent fifty-five licenses have been issued (R. 107a) and many more in other countries (R. 84a).

As a result of Jungersen's achievement the cuttlefish casting and sand casting processes have been eliminated (R. 51a, 52a, 71a). Generally, die stamping has also been discontinued (R. 119a). The hand fashioning of rings has become practically obsolete. In addition, rings of intricate design, which can not be reproduced by the die stamping method, can be readily and inexpensively produced by Jungersen's method (R. 122a). Designs which can not be reproduced in any other way are easily cast in one piece by his invention. Through the Jungersen process, com-

plete freedom is given the designer to produce the most beautiful and intricate designs of jewelry at a cost within the reach not merely of the few, but of the general public.

Jungersen depends for his and his family's livelihood upon license fees under the patent, and in the hope of placing a license, he made one of his first approaches in the United States to the very large concern, Ostby and Barton, a respondent here.

3. *Ostby and Barton and Jewelry Casting*

The history of this great jewelry manufacturing concern (R. 127a) and its adoption of casting in the spring of 1936, taken with the relationship of Tour (who was the respondents' expert witness) to Ostby and Barton, is in itself evidence supporting invention in Jungersen's process.

Jungersen in 1934 approached Ostby and Barton, who had made jewelry entirely by the die stamping process until they took up his casting process in 1936. At the first meeting (in 1934) Jungersen showed various officials of Ostby and Barton a large number of cast rings and told them he had invented a casting process by which these rings were made and that he had applied for a patent on the process. They showed interest, and Jungersen offered them a license. At a later meeting Jungersen, accompanied by his son, disclosed his molds to the responsible men of Ostby and Barton, and explained to them in detail how his process worked, all this on their honor and assurance that they would not divulge his yet unpatented process to any one and would not themselves use the method without first obtaining a license from Jungersen (R. 89a-93a, 100a-102a, 102a-106a). Ostby and Barton admit the two meetings and subsequent ones (R. 141a) and Raymond Ostby, who was examined before trial, admitted that Jungersen's process was of interest to his company, and further that the "*casting proposition that Mr. Jungersen proposed to Ostby and*

Barton is related to" the process which they afterward adopted and which is charged to infringe (and concededly infringes) claims 5 and 6 (R. 352a). Nothing came of the negotiation, but in 1936 Ostby and Barton made a deal with a man named Stein to install the same method of casting that is the subject of the suit (Ex. P-22, R. 500a, 124a). At none of the subsequent interviews with Jungersen was he advised that Ostby and Barton had adopted his casting process. They almost immediately disclosed the process they had just adopted to one Tour, the expert witness for Ostby and Barton in this case (R. 146a, 169a). Tour had been a consultant of Ostby and Barton and other jewelry manufacturers since 1929 (R. 146a, 170a), advising them on technical matters. When he learned the process they had just adopted—in 1936, which was long after Jungersen had licensed it to others in the United States, and two years after his patent application had been filed—Tour went to other jewelry manufacturers and for a fee of $100 a day (R. 170a-171a) instructed them in the process. It is clear that Tour, an expert conventional caster, had no knowledge of how to cast jewelry by this process until he learned Jungersen's method from Ostby and Barton. He had been identified (R. 162a) with the industrial die casting process of a Kralund patent (of which more hereafter (R. 413a)), but, apparently, he never thought of that process as being applicable to jewelry casting until he testified in this case. At any rate he first began to teach the infringing process after he learned it from Ostby and Barton.

Although holding that none of the prior patents or prior publications had for their objects the casting of jewelry, and that to that extent the prior art was a non-analogous art (Finding 22, R. 36a) the reading of which would not "enable one skilled in the art to perform the requisites of the jeweler's trade" (R. 25a), the Courts below nevertheless held that the Kralund patent, when read with the Spencer and Haseltine patents, anticipated claims 5 and 6

of the Jungersen patent in suit (R. 29a). They also held that the method or process used by Ostby and Barton "involves essentially the process in Claims 5 and 6" (R. 38a, Finding 34).

4. *The Difference Between Claims 1 to 4, Found to be Valid and Not Infringed, and Claims 5 and 6, Held to be Invalid*

The essential difference between claims 1 to 4, found to be valid, and claims 5 and 6, found to be invalid, is one of scope. For example, claim 2 specifically calls for the introduction of molten wax by "centrifugal force" into a primary mold formed of rubber or other like material; whereas in claims 5 and 6 the molten wax is introduced into the primary mold formed either of rubber or a soft metal "by force sufficient to deposit the material into the depression or depressions" of the mold. What the respondent Ostby and Barton admittedly do is identical with the method Jungersen disclosed to them and which is covered by his claims 5 and 6, namely, they introduce into the primary mold (which has been first formed of soft metal about a model) the molten wax by a force, in their case the force being derived from a syringe or the like (R. 136a). In each instance a wax replica of the original model is produced, and thereafter the secondary or casting mold of plaster of Paris or the like is formed about the wax replica, and in this secondary mold the gold or silver is cast into a cavity replica of the wax after the wax has been melted out. Manifestly Ostby and Barton learned the process from Jungersen and adopted it.

The trial court and the Court of Appeals, having found that the first four claims are valid over the three of the prior patents, were quite inconsistent, as it seems to us, in finding claims 5 and 6 to have been anticipated by these same patents which had nothing to do with jewelry manufacture. A moment's attention to the prior art will make this clear and establish the validity of the two claims that have been held to be infringed but not valid.

5. *The Prior Art*

A. Kralund Patent 1,238,789 (R. 413a-416a)

Kralund begins and ends in the commercial *die casting* field. His sole aim and purpose is to find a way to save his expensive machine cut hardened steel dies from "rapid destruction" due to the concentrated high heat shocks, in making castings weighing in excess of 2 or 3 pounds each (R. 414a, ll. 50-52, and Robinson R. 113a). To protect these costly dies, Kralund conceived the idea of using them for casting wax patterns only and of using the wax patterns to produce plaster molds which would serve as substitute dies. Unlike Jungersen, Kralund is not concerned with casting small intricate pieces of jewelry. He doesn't teach a method of forming an inexpensive mold around a model of the jewelry item to be cast. Kralund's only aim is to save his expensive tool cut hardened steel dies by a technical detour in the course of the conventional die casting procedure he is following. That is all Kralund was seeking and that is all his patent teaches.

Tour conceded that the common practice in die casting is to build dies, from drawings of the parts to be made instead of from models (R. 147a) and that Kralund mentions no model (R. 167a).

Kralund's castings do not differ from castings regularly made by the conventional die casting process, while *Jungersen achieves a truly new result which is of tremendous significance to the jewelry trade.*

Jungersen's whole idea is centered around the elimination of costly steel dies and their related costly equipment and labor; complete simplification of mold making for jewelry casting; and the economical reproduction of small intricate pieces of jewelry with utter fidelity to the

most exquisitely fine details of design. Kralund and Jungersen are in wholly separate and distinct fields, for as Kralund points out (R. 415a, bottom 2d col.) his technique would be impractical for castings under 2 to 3 pounds.

B. Spencer Patent 748,996 (R. 400a-412a)

This is one of the two patents taken by the courts below in connection with the Kralund patent as justifying the invalidity of claims 5 and 6 (R. 38a, Finding 33). This patent is from the sculptors' art and is non-analogous. It has to do with the reproduction of objects of art, such as statues, which may be solid or hollow. Spencer's mold is a thin rubber mold which fits like a rubber glove over the model. At the top of the first column on page 410a Spencer says that after vulcanization of his mold the interior thereof, or matrix, may be altered and parts removed as desired. This, and the over-all finishing and sculpturing of the wax pattern, are common to this type of work. The skill of the sculptor or artist is necessarily required.

To provide against chemical action that would otherwise occur between the rubber of which his mold is to be made, and the material of his model, Spencer covers his model with aluminum leaf (R. 406a, col. 2, lines 89-109). Unlike Jungersen, no pressure whatever is used by Spencer in introducing the wax into his rubber mold (R. 149a). It is apparent from Spencer's contemplated requirements of slitting, piercing, altering the mold surfaces, and covering the model with aluminum leaf, that his casting conditions were critically different from those involved in casting intricate jewelry; that the results were rough and incomplete and would be of no value in the jewelry casting art. This is further evidenced by the fact that jewelry has never been cast by the Spencer process, which is obviously not suitable for such casting. It was not

until twenty-nine years after Spencer's patent, when Jungersen introduced his new method of casting, that the trade adopted any new casting method or had any new and superior process to adopt (see Detler R. 72a, bottom).

C. Haseltine British Patent No. 2467 of 1875 (R. 427a-443a)

Haseltine, like Spencer, discloses a process for making figures or statues, or loving cups, as shown in his drawings. Unlike Jungersen, he *pours* his wax slowly into a rubber mold until the mold is filled,—using no pressure. If the object is to be hollow when cast in metal, the surplus wax is poured out as soon as the wax has formed a shell by cooling on the sides of the mold. Tour admitted that in Haseltine the wax is simply poured in (R. 149a). As Haseltine's rubber mold is very thin, he suspends it in water to cool it and hold it in shape (R. 432a, ll. 28-30). It is obvious that this process is not analogous to Jungersen and adds nothing to the Spencer or to Kralund.

Therefore, as it seems to us, the courts below went astray in holding that the broader claims 5 and 6 are met, while finding that the narrower claims 1 to 4 are not met, by the art cited. The only thing really in common between the Jungersen patent and the three prior patents, is the use of the "lost wax" step, *i. e.*, melting out the wax after completion of the casting mold. This was practiced 400 years ago by Cellini in conducting a wholly different process for the manufacture of statuary and other large objects (R. 448a).

There was also evidence before the trial court upon defenses that no less than three separate people allegedly used the method of the Jungersen patent to make jewelry, or something said to be analogous to it, before the date of his invention. All three were [redacted] overruled by the trial court as insufficient (R. 36a-37a), and two were withdrawn

(R. 41a, 365a). This goes to show that the jeweler's art was seeking for a better method than any of the four standard processes which (as shown above, p. 3) it had been practicing. It also demonstrates that the prior patents fall short of accomplishment because prior users would not have failed if the prior patents disclosed the rationale of a jewelry process. The fact still remains that the claimed sequence of steps of any of the six Jungersen claims has never been used in, known or taught by, the prior art.

The net result of the decision below is to give to Ostby and Barton, the appropriator of the process disclosed to them in confidence by Jungersen, the benefit of their appropriation merely because of the variation in the terms of the claims. This seems hard measure for one who has accomplished as much as Jungersen has done by giving to the jewelry trade a new tool for producing faithfully and inexpensively jewelry of intricate and exquisite design.

This petition is directed to a review of the decision of the Court of Appeals in its holding of affirmance of invalidity as to claims 5 and 6 of the Jungersen patent.

Jurisdiction

1. This is a suit arising under the Declaratory Judgment Act, Section 274(d) of the Judicial Code (28 U. S. C., Sec. 400) and under the Patent Laws of the United States, Sec. 24(7) of the Judicial Code (28 U. S. C., Sec. 41(7)).

2. The jurisdiction of this Court is invoked under Sec. 240(a) of the Judicial Code as amended by the Act of February 13, 1935 (28 U. S. C., Sec. 347).

3. The date of the decree which petitioner seeks to have reviewed is September 5, 1947 (R. 380a). There was no petition for rehearing.

Question Presented

The decision of the Circuit Court of Appeals for the Third Circuit presents the following question:

Whether claims 5 and 6 of the Jungersen patent were properly held invalid, particularly on the ground of lack of invention over the prior Kralund patent, in view of prior patents to Spencer and Haseltine, all of which art had been specifically found to be of itself insufficient to enable one skilled in the art to perform the requisites of the jeweler's trade and not analogous to the process of the Jungersen patent (R. 25a, 36a).

Reasons for Granting the Writ

The discretionary power of this Court to grant a writ of certiorari is invoked upon the following grounds:

1. The decision of the Court of Appeals holding claims 5 and 6 of the Jungersen patent invalid on art which it had held non-analogous and which would not teach a man skilled in the art to perform the requisites of the jewelry trade to which those claims are directed is in apparent conflict with the decisions of this Court.

> *Potts* v. *Creager*, 155 U. S. 597, 606-608;
> *Carnegie Steel Co.* v. *Cambria Iron Co.*, 185 U. S. 403, 423;
> *Smith* v. *Snow*, 294 U. S. 1, 11.

2. There is presented a substantial question of general importance to the jewelry manufacturing trade with respect to the proper scope of protection to which Jungersen's contribution to that trade is entitled to enjoy under the patent laws. That such a question is presented is, as set forth above, shown by the almost universal adoption by the jew-

elry manufacturing trade (both licensed and unlicensed) and further by the repeated attacks which have been in the past made, and still are being made, upon the Jungersen patent in suit. See Judge Chesnut in *Jungersen* v. *Jenkins* (D. C., D. Md.), 30 F. Supp. 615; Judge Kalodner in *Jungersen* v. *Morris Kaysen Co.* (D. C., E. D. Pa.), 31 F. Supp. 703; Mr. Justice Luxmore of the Patents Appeal Tribunal, Royal Courts of Justice, *In re Jungersen* (R. 508a-513a), in all of which Jungersen was sustained; also *Jungersen* v. *Baden & Foss, et al.* (D. C., S. D., N. Y.), 69 F. Supp. 922, in which all six claims of the Jungersen patent were held invalid, but which has been appealed.

Wherefore, it is respectfully submitted that this petition for a writ of certiorari to the Circuit Court of Appeals for the Third Circuit with respect to Appeal No. 9223 should be granted.

DRURY W. COOPER,
JOHN N. COOPER,
KARL W. FLOCKS,
Counsel for Petitioner.

BRIEF IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI

Opinions of the Courts Below

The opinion of the United States District Court for the District of New Jersey was filed May 7, 1946 (R. 22a), and is reported in 65 F. Supp. 652.

The opinion of the Circuit Court of Appeals for the Third Circuit was filed September 5, 1947 (R. 378a), and is reported in 163 F. (2d) 312, Case 3.

Jurisdiction

See Petition (*supra*, p. 11).

Statement of the Case

The essential facts are stated in the accompanying petition for writ of certiorari, and in the interest of brevity are not repeated here.

Specification of Errors

The errors which the petitioner will urge if the writ of certiorari is issued are that the Circuit Court of Appeals for the Third Circuit erred:

1. In failing to hold that claims 5 and 6 of the Jungersen patent in suit are valid.

2. In holding claims 5 and 6 of the Jungersen patent in suit invalid for want of invention over Kralund in view

of Spencer and Haseltine, which the Court found to be non-analogous art and would not teach a man skilled in the jewelry art the requisites of the Jungersen process.

3. In failing properly to interpret claims 5 and 6 on the basis of the disclosure of the specification.

Argument

In the findings of the courts below, all the prior art cited was held to be non-analogous and insufficient to enable one skilled in the art to perform the requisites of the jeweler's trade (R. 25a, 36a). The courts below broadly interpreted claims 5 and 6 to provide introduction of molten wax or other low fusing material into the depressions of the primary mold by force sufficient to deposit it (R. 37a) and that the Kralund patent taught forcing molten material "into a metal mold or die under sufficient pressure to insure the filling of said mold or die" (R. 38a). The conclusion of invalidity was principally based upon this incorrect understanding of the Jungersen process and the incorrect application of the Kralund patent to that process.

The courts below failed to give full effect to significant points of distinction between the Jungersen process as defined in claim 5 and the Kralund patent. The specific teaching of Jungersen was to first produce a model of jewelry of intricate design, such as a ring, which Kralund does not teach (R. 167a). Unlike Kralund, Jungersen teaches the formation of an inexpensive type of mold, *i. e.*, a mold shaped around the model by means of a soft material which insures forming cavities for all the intricate designs of the original model. Kralund has no such teaching but merely discloses the use of a machine cut steel die which requires "the most skilled and exacting type of die making" (R. 489a). In the jewelry field there is a definite limitation as to what can be done with a steel cut die (R. 122a).

Kralund also teaches the use of die casting pressures which he says can not be used with a fragile mold (R. 415a, col. 2, lines 117-119). In the sense of Kralund's teachings, Jungersen's primary molds are fragile; they are of very small size and made of soft material, and they would not stand the usual die casting pressures. Kralund was solely dealing with commercial die castings of large bulk (Finding 32, R. 38a).

Had the court, in the light of the specification, correctly interpreted claims 5 and 6 properly to be restricted to his particular type of mold which, unlike Kralund's, is formed about a model of intricate design in combination with the other claimed steps of the Jungersen process, there would have been no proper basis whatever for holding invalidity on the basis of the found non-analogous teachings of Kralund in view of the found non-analogous teachings of Spencer and Haseltine.

Having found invention in claims 1 to 4 over the cited references which were found to be non-analogous to, and would not teach the man skilled in the jewelry art to use, the Jungersen process (*Potts* v. *Creager*, 155 U. S. 597, 606-608; *Carnegie Steel Co.* v. *Cambria Iron Co.*, 185 U. S. 403, 423), there was no basis, upon a correct interpretation of claims 5 and 6 in the light of the specification, to hold they were invalid on that very same art. Under Revised Statutes, Sec. 4888 (35 U. S. C., Sec. 33), Jungersen is not confined to the particular method set forth and described but is entitled to claims commensurate with his invention as illustrated by the described preferred embodiment (*Smith* v. *Snow*, 294 U. S. 1, 11).

The patent in suit has been attacked repeatedly. See Judge Chesnut in *Jungersen* v. *Jenkins* (D. Md.), 30 F. Supp. 615; Judge Kalodner in *Jungersen* v. *Morris Kaysen Co.* (E. D. Pa.), 31 F. Supp. 703; Mr. Justice Luxmore of the Patents Appeal Tribunal, Royal Courts of Justice,

In re Jungersen (R. 508a-513a), in all of which Jungersen was sustained; also *Jungersen* v. *Baden & Foss* (S. D. N. Y.), 69 F. Supp. 922, in which all six claims of Jungersen's patent were held invalid, but which has been appealed.

We submit that Jungersen is entitled to have his "one ewe lamb" authoritatively awarded him and an end made of the vexatious and harassing litigation that would take it from him.

Respectfully submitted,

DRURY W. COOPER,
JOHN N. COOPER,
KARL W. FLOCKS,
Counsel for Petitioner.